

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

EDDIE J. SYKES,

Plaintiff,

v.

Case No. 08-cv-179-JPG

ADRIAN FEINERMAN, *et al.*,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff Eddie J. Sykes' Motion for Leave to Appeal *in Forma Pauperis* (Doc. 98).

A federal court may permit a party to proceed on appeal without full pre-payment of fees provided the party is indigent and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(3) (2006); Fed. R. App. P. 24(a)(3). A frivolous appeal cannot be made in good faith. *Lee v. Clinton*, 209 F.3d 1025, 1026-27 (7th Cir. 2000). The test for determining if an appeal is in good faith or not frivolous is whether any of the legal points are reasonably arguable on their merits. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (citing *Anders v. California*, 386 U.S. 738 (1967)); *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000).

Here, it cannot reasonably be disputed that Sykes failed to exhaust his administrative remedies (by not giving the director of the Illinois Department of Corrections a reasonable time to issue a final determination as to the findings of the Administrative Review Board). In fact, it was Sykes' failure to respond to Defendants' summary judgment motion and Magistrate Judge Clifford J. Proud's report and recommendation that led to the swift entry of

judgment against him.

Being fully advised of the premises, the Court **CERTIFIES** that Sykes' appeal is not taken in good faith and **DENIES** the instant motion (Doc. 98).

IT IS SO ORDERED.

DATED: May 18, 2011

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE